IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

Bail Appl..No. 7315 of 2007()

CRIME NO.646 OF 2007 OF KOTTIYAM POLICE STATION

: PETITIONER/IST ACCUSED

RENGANATH, S/O.R.SIVAN PILLAI, ANNAM VEEDU, CHANDANAKKAVU, PAZHAVEEDU.P.O. ALAPPUZHA DISTRICT.

BY ADV. SRI.C.RAJENDRAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
KOTTIYAM POLICE STATION, THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7315 of 2007

Dated this the 29th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. He is the Manager of I.C.I.C.I Bank, Kollam. The bank had advanced a loan to the defacto complainant. There was allegedly breach of the stipulations of the agreement. The petitioner has a case that the defacto complainant had surrendered her vehicle in terms of the agreement between the parties. The defacto complainant filed a private complaint before the Magistrate. The same was referred to the police under Section 156(3) Cr.P.C. Crime was registered on 09.11.2007. In such private complaint, it was alleged that on 4.6.07, the vehicle was forcibly taken away from the possession of the defacto complainant by the petitioner and others. The crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. Forcible reduction of possession of the vehicle on 4.6.07 is the crux of the allegation. About such forcible

dispossession admittedly, a private complaint was filed about 5 months after the incident only. The learned counsel for the petitioner contends that this is an attempt transparently to steal a march over the financing bank in the civil transaction. There is nothing to even remotely indicate that any forcible repossession had actually taken place on 4.6.07, contends the learned counsel for the petitioner.

3. The learned Public Prosecutor submits that taking law into ones hands by even a financier must be frowned upon and in these circumstances the allegations must be held to constitute offences which are punishable under law. The learned counsel for the petitioner does not at the moment dispute that proposition, but contends that in the facts and circumstances of this case, there is absolutely nothing even to remotely indicate any forcible repossession.

4. I have considered all the relevant inputs. At this early stage of investigation, I shall not attempt to resolve the disputed questions of facts. Suffice it to say that on a consideration of the totality of inputs, I am satisfied, that directions under Section

438 Cr.P.C can be issued in favour of the petitioner. In coming to this conclusion, I take note of the crucial circumstance that for about 5 months after the date of the forcible repossession, the defacto complainant had not taken any action against such allegedly forcible repossession.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 06.12.2007. He shall be enlarged on regular bail on his executing a bond for Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 07.12.2007 and 08.12.2007 and thereafter as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to

arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 06.12.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.50,000/- (Rupees Fifty thousand only) without any sureties undertaking to appear before the learned Magistrate on 06.12.07.

(R.BASANT, JUDGE)

rtr/-